

MEMORANDUM

Office of the City Council



To: Honorable Mayor and City Council
From: Vice Mayor Armando Gomez
Councilmember Bob Livengood
Subject: Charter City Consideration
Date: February 15, 2006

RECOMMENDATION:

Vice Mayor Gomez and Councilmember Livengood recommend the Council place on the June 2006 ballot an advisory measure requesting the voters of Milpitas provide the Council direction regarding Milpitas changing from a General Law to a Charter City which could include, among other things: 1) requiring a rainy day reserve that cannot be used for salaries, 2) requiring certain capital projects over \$15 million obtain voter approval, 3) increasing the City Council from 5 to 7 members to promote civic participation and greater oversight of staff, 4) requiring a formal process when hiring the City Manager, Assistant City Manager and department heads, 5) requiring the Council shall contract with an independent audit firm, which has no other contract with the City, to conduct a performance audit of each city department every 10 years; and 6) is consistent with this statement of policy and general rules outlined in this memo.

BACKGROUND:

In California, a city is either a General Law or a Charter City. A Charter City is regulated by State law in matters of statewide significance and acts under its Charter authority with respect to matters that are municipal affairs. A General Law city is regulated by State law and is more limited than a Charter City with respect to municipal affairs. Santa Clara County cities that have charters include San Jose, Sunnyvale, Santa Clara, Gilroy, Mountain View, and Palo Alto.

Our current system under the "General Law" form of government has problems. As we move forward and budgets become tighter, we learn that we could have done more with less in past years and we could have operated more efficiently. Also, the City recently renegotiated a previous agreement set up by the former administration with the County regarding a Health Center saving the City approximately \$7,000,000. Over the last few years, and under the previous administration, several department heads have bypassed a competitive recruitment process and were directly appointed to high level and high paying positions leaving the council and public with a feeling of skepticism as to whether or not the most qualified person was appointed to the position.

Vice Mayor Gomez and Councilmember Livengood feel strongly that our City government can be improved upon and it warrants discussion among the residents of the City. The voters need to consider providing the Council with the tools to provide more oversight of city staff. Tools such as

additional councilmembers, rules regarding budget procedures, setting a philosophy into the structure of our government, protections from the state legislative changes impacting municipal affairs and more local authority and control over municipal affairs are all issues the voters should consider in voting for the measure and the council should consider in giving the voters the opportunity to move in this direction.

In accordance with the California Constitution, Milpitas voters may enact a City Charter to govern their City government. Drafting a Charter does require time and effort and is a significant change in how the city operates. Rather than directing staff to invest time in drafting a Charter, we request the voters provide the council with direction on the matter. It is their City.

Statement of Policy

Established as a City in 1954, Milpitas has a rich and unique heritage. Residents and visitors cherish the beauty and history of the City and its diverse surroundings. The citizens of Milpitas freely offer their energies, ideas, and time to the City. As stewards of Milpitas' wellbeing, they express their commitment by proactively ensuring that this is a special place to live, work, play, and raise families.

This Charter describes a government its citizens can understand, and welcomes participation and cooperation to continue its tradition of being accountable to the people. This Charter provides the legal framework for operating the government in the City of Milpitas. It is the legal document that governs the operation of the city. The purpose of this Charter is to help the public servants and citizens of Milpitas identify and meet City needs as they evolve. The Charter clarifies goals and requirements for City officials, and provides sufficient flexibility to adapt to future needs and opportunities. This Charter has been crafted to:

- provide elected and appointed officials with tools and resources to perform their duties effectively
- define clearly the duties and responsibilities of City officials
- deliver City programs and services efficiently, affordably, and cost-effectively
- encourage opportunities for cooperation, and reduce potential for conflict, among City offices and between the City and other governmental entities
- enhance and improve the quality of long-range planning and implementation of City plans
- promote government efficiency in programs and services
- require regular reviews of important City plans, including this Charter.

General Rules

Government

The form of government established shall be the Council-Manager form of government.

The City Council shall consist of six Councilmembers and a Mayor. The Councilmembers shall each serve four year terms. The Mayor shall be elected at-large for a two-year term.

Term limits shall be consistent with the current system, and no current councilmembers will have their allowed time extended beyond what is currently allowed under the current term limits.

The Council and Day to Day Operations of Staff

Neither the Council nor any of its members nor the Mayor shall interfere with the execution by the City Manager of his or her powers and duties, nor in any manner dictate the appointment or removal of any City officers or employees whom the City Manager is empowered to appoint, except as provided. However, the Council may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such officers and employees.

The Council, its members and the Mayor, shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members nor the Mayor shall give orders to any subordinate officer or employee, either publicly or privately.

Department Head Recruitment Process

The hire of all department heads including City Manager, Assistant City Manager, and Department Heads shall be required to go through a formal recruitment process.

Fiscal Administration

Budget Message

The Finance Committee shall deliver a budget message that shall include:

- A pre-budget message shall include, but is not limited to, a statement of the fiscal policies and priorities that the City should adopt for the ensuing budget.
- A post budget message shall include, but is not limited to, which Departments, Offices or Agencies the Finance Subcommittee proposes to be expanded or to receive reduced budgeted allocations and specific recommendations concerning any proposed additions to or deletions from the budget.

The Finance Subcommittee chair shall deliver the budget messages during a meeting of the Council to be held following the receipt of the budget request from the City Manager.

The Council shall hold a public hearing to consider the budget messages and to make any revisions or changes in which the Council deems advisable.

Process

A schedule and procedures for the orderly preparation and submission of the annual proposed budget shall be required.

The budget process shall begin with a community meeting in early January to discuss community priorities.

A procedure to include public participation in the budgetary process, which shall include public hearings, shall be detailed.

Rainy Day Reserve

There shall be a Rainy Day Reserve, which may also be known as an economic stabilization reserve developed. The charter will also include procedures for withdrawing from the reserve. The reserve cannot be used for employee salaries.

City Department Performance Audit

The Council shall contract with an independent audit firm, which has no other contracts with the City, to conduct a performance audit of each city department every 10 years. The report of the performance audit shall be available to the public.

Voter Approval of Certain Capital Project

The Council shall be required to obtain voter approval of certain capital projects over \$15 million.